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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re

Chapter 11

DELPHI CORPORATION, et al.,

Case No. 05-44481 (RDD)  
(Jointly Administered)

Debtors.

**OBJECTION BY FREUDENBERG-NOK GENERAL PARTNERSHIP TO  
DEBTORS' (I) NOTICE OF ASSUMPTION AND/OR ASSIGNMENT OF  
EXECUTORY CONTRACT OR UNEXPIRED LEASE TO BUYERS IN  
CONNECTION WITH SALE OF DEBTORS BEARING BUSINESS  
AND (II) MOTION FOR SALE OF BEARING BUSINESS**

Freudenberg-NOK General Partnership (collectively, "FNGP") objects to the Debtors' (I) Notice of Assumption and/or Assignment of Executory Contract or Unexpired Lease to Buyers in Connection with Sale of Debtors' Bearing Business ("Assumption Notice") [Docket #12403] and (II) Motion for Sale of its Bearing Business ("Motion") [Docket #12104]. In support of its objection FNGP states as follows:

**Introduction**

1. FNGP files this objection because:
  - (a) Debtors do not propose a cure amount for the Contracts (defined below) and some of the contracts may not be executory; and

- (b) no proposed purchaser under the Motion has given FNGP adequate assurance that it would be able to perform its duties under the Contracts.

### **Background**

2. On January 15, 2008, Debtors filed the Motion, which requests an order approving, *inter alia*, the assumption and assignment of certain executory contracts and unexpired leases related to Delphi's Bearing Business.

3. In the Motion, Debtors seek authority under Section 365 of the Bankruptcy Code to assume and assign certain contracts to ND Acquisition Corp. ("ND Acquisition") or any other successful bidder.

4. On January 30, 2008, Debtors filed the Assumption Notice.

5. The Assumption Notice (attached as Exhibit A) identifies the purchase orders that Debtors seek to assume and assign (collectively, "Contracts") and does not propose a cure amount.

### **Argument**

6. Section 365(b)(1) of the Bankruptcy Code provides that "if there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of the assumption ... the trustee (A) cures ... such default." FNGP has not yet identified the status of the Contracts and has not determined whether any cure amounts are due and owing. Debtors do not list a proposed cure amount for the Contracts. FNGP reserves all rights with respect to the existence of cure amounts owing under the Contracts.

7. Under Section 365(f)(2)(B) of the Bankruptcy Code, Debtors may assign an executory contract only if “adequate assurance of future performance by the assignee of such contract ... is provided.” Neither ND Acquisition nor any other prospective purchaser has provided FNGP with adequate assurance of future performance of the Contracts.

8. Because FNGP has not yet completed its review of the Contracts, it does not concede that all of the Contracts are executory. Until FNGP is able to determine that the Contracts are executory contracts, it objects to the proposed assumption and assignment.

9. Because the legal points and authorities upon which this objection relies are incorporated and do not represent novel theories of law, FNGP requests that the requirement of the filing of a separate memorandum of law under Local Rule 9013-1(b) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York be deemed satisfied.

### **RELIEF REQUESTED**

FNGP requests that the Court condition the assumption and assignment of the Contracts to Steering Solutions, or any other prospective purchaser, upon payment of the correct cure amount, if any, and upon any proposed purchaser’s proof of adequate assurance of future performance of the Contracts.

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Partnership

February 11, 2008

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing ***Objection by Freudenberg-NOK General Partnership to Debtors' (I) Notice of Assumption and/or Assignment of Executory Contract or Unexpired Lease to Buyers in Connection With Sale of Debtors Bearing Business and (II) Motion for Sale of Bearing Business*** was electronically filed using the Court's CM/ECF filing system, and that a true and correct copy of the same was served via Federal Express to the parties identified below:

Delphi Automotive Systems LLC  
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Troy, Michigan 48098

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(Attn: Alicia M. Leonhard)

and

The Honorable Robert D. Drain  
United States Bankruptcy Judge  
U.S. Bankruptcy Court for the Southern District of New York  
One Bowling Green  
Room 610  
New York, New York 10004

Dated: February 11, 2008

/s/ Ralph E. McDowell  
Ralph E. McDowell